IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.3046 OF 2005

Nanoli Stud Farm & High Grove Stud Farm — Petitioner
vs.
Union of India & ors. — Respondents

Mr.Shyam Mehta i/b.Mr.R.M.Tiwari for the petitioner.

Mr.M.I.Sethna, Senior Counsel with Mrs.S.V.Bharucha,
advocate for the respondents.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 13th March, 2006

P.C.

Heard Mr.Shyam Mehta, the learned counsel for the petitioner.

2. The grievance raised in the writ petition is with regard to the order of the Settlement Commission, Customs & Central Excise, Additional Bench, Mumbai whereby the petitioner was not granted immunity from interest at the rate of 10% per annum on the duty element from the time it was due.

3. The learned counsel for the petitioner strenuously urged that the respondent no.2 failed to appreciate that in the identical circumstances regarding the import of horses, the Settlement Commission in the cases cited by

the petitioner had granted full waiver of interest on the same grounds and, therefore, the petitioner ought to have been granted full waiver of interest. The learned counsel relied upon the orders passed by the Settlement Commission in the cases of: (i) M/s.Kehelan Stud, Live Stock and Agricultural Farm by Settlement Commission, Additional Bench at Chennai; (ii) M/s.Gee Stud Farm Pvt.Ltd. decided by Settlement Commission, Principal Bench, New Delhi; (iii)M/s.The Poona Stud Farm Pvt.Ltd. decided by Settlement Commission, Additional Bench, Mumbai; (iv)M/s.Manjiri Stud Farm Pvt.Ltd. decided by the Settlement Commission, Principal Bench, New Delhi and (v)M/s.Sholavaram Stud Farm & Chettinad Stud & Agricultural Farm decided by Settlement Commission, Additional Bench, Chennai.

4. We find from the impugned order that the Settlement Commission noticed that the Bench that passed the impugned order has taken consistent view regarding chargeability of interest. That in many cases, the Bombay Bench has not granted immunity from interest in excess of 10% per annum is not in dispute. As a matter of fact while refusing to grant immunity to the petitioner from interest in excess of 10% in the impugned order, it has been observed that the actions of the petitioners were malafide as they consistently undervalued the invoices in respect of the import of

horses. Having found the conduct of the petitioner malafide consistently in underinvoicing on import of horses, if the Settlement Commission denied the immunity to the petitioner from interest in excess of 10%, such order cannot be faulted. Article 14 of the Constitution of India does not apply in the matters like this. The fact that the actions of the petitioners were held malafide and the same finding is not challenged by the learned counsel for the petitioner, we are of the view that the impugned order does not call for any interference in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. The various orders passed by the Settlement Commission relied upon by the petitioner are not of much help for the reasons given by the Settlement Commission refusing to grant immunity to the petitioner from interest in excess of 10%.

5. Writ petition does not deserves to be admitted.

Dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)